

2. Road Traffic Legislation (Amendment) Bill 2016 – Second Reading approved

Mr Corkish to move:

That the Road Traffic Legislation (Amendment) Bill 2016 be read a second time.

The President: We turn now to Item 2. I call on the Hon. Member, Mr Corkish, to take the Second Reading and clauses stage of the Road Traffic Legislation (Amendment) Bill 2016.

Mr Corkish: Thank you, Madam President.

I beg to move that the Road Traffic Legislation (Amendment) Bill be now read a second time.

I wish to thank Hon. Members for the support that they have given to the Bill during its First Reading.

If I may summarise the key purposes of the Bill, they are fivefold: first, to deal with unsafe or irresponsible driving, whether it be drug driving, using a motor vehicle for the purposes of crime, or riding a vehicle on footways – that is to say, pavements; second, to lessen the overload on the courts by providing for the enforcement of fines, compensation, or vehicle duty through the seizure of motor vehicles; third, to improve the law relating to the construction and use of vehicles – for example, their use by disabled persons; fourth, to make extensive and material amendments to the law on driving licences and disqualification; and finally, to facilitate the detection of crime – for example, by providing, on the one hand, for the use of the Motor Insurers' Database, and by extending, on the other, the information-gathering powers of both the Police and the authorised vehicle examiners of the Department of Infrastructure.

The Bill also contains a miscellany of lesser amendments to road traffic law.

At the close of the debate on the First Reading Hon. Members raised a number of interesting points. To the extent that I did not deal with them at that time, or did so only partially, I would like, if I may, to amplify the remarks I made then.

Without citing examples, Mr Turner expressed the view that some of the Bill's provisions, in the way that they would operate, were 'quite draconian', if I may use his expression. Should the Bill be given its Second Reading, we shall, of course, vet each provision at the clauses stage, so suffice it for me to reply here in equally general terms by saying that in the opinion of the Department the Bill provides measured responses to the matters that it addresses – responses that are clearly in the public interest.

Mr Cretney enquired about the power being taken to regulate the entry into the Island of overseas caravans and how they would be differentiated from those belonging to the Manx public. It is, I think, true to say that the order-making power conferred by the Bill is sufficiently wide to encompass all relevant matters relating to such overseas vehicles. As to defining them, that will fall to be considered when an order is being drafted, but I do not foresee a problem.

While very supportive of the Bill, Mr Henderson, unlike Mr Turner, expressed the view that it was not as draconian as it could be in certain circumstances. He went on to cite various instances where he was of the opinion that irresponsible driver behaviour needed to be addressed. I agree that there is a problem but am inclined to conclude that it is caused not so much by the lack of regulatory powers, which I think are sufficient, but rather by the way in which they are used and by inadequate enforcement. As regards driver behaviour at roundabouts and traffic lights, it is in fact the subject of advice in the Manx Highway Code, which has recently been republished. Although the Code does not in itself render a person liable to criminal proceedings if he or she fails to observe it, failure may be relied on in such proceedings, or civil ones, as tending to establish or to negative any liability that is in question.

Having amplified my remarks made at First Reading, it remains for me to say that I and the Department are convinced this Bill will, in particular, make a material contribution to road traffic law. As such I commend it to the Council.

Madam President, I beg to move that the Road Traffic Legislation (Amendment) Bill 2016 be now read a second time.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: I beg to second, Eaghtyrane, and reserve my remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

Well, let's get this debate going, shall we? The Department of Infrastructure are absolutely genius at putting in a few things, a few headlines, that we can all sign up to and all agree with. But then, of course, what is behind it is rafts and rafts of rules, regulations, controls that are clearly designed to keep rafts of bureaucrats in business.

I am very disappointed as to why this and other legislation is being rushed through ahead of the next administration. The excuse given is, 'Well, we're trying to see out the commitments we gave,' but these are not commitments that were given; these are things that have been bubbling around for years, and the reason they have been bubbling around for years is because they are not popular, the consultation has been pretty poor, and when they do get feedback from consultation it is just not listened to.

I would hope that certainly this legislation – because I think it has started here, hasn't it, yes – when it goes to the other place, which will be in the new administration, gets kicked out. Really, at this stage in the process we should be not rushing through legislation when we know there is a new administration coming, who may have new views, new policies and all the rest of it. Everything seems to be getting not even railroaded but more ram-raided through.

The other piece of legislation from this Department is not appearing on the Order Paper, but they are interlinked, and we had representation, which I circulated to Hon. Members, from the Island Road Transport Association highlighting the shambolic way in which the consultation into this and other legislation has taken place.

I just would urge the Member that really this should not go any further at this stage and it should be for the new administration, with new Ministers who may have new policies, to decide, because there are an awful lot of provisions in this that are going to be put into statute and I think some of them are incredibly, as I said, draconian.

The mover talks about enforcement, and we had this recently over the Local Government Bill which he put through, and again I voted against that because, if I use this as an example, we were told it was going to sort the problem out, but since then I have been looking round at other things with regard to the provisions that was meant to address and it has not been addressed at all. And it is the same with this, if you look at the same principle with this, where we are seeing provisions being brought in where there are already powers available to deal with most of the things that he talks about – the standard of driving and all the rest of it. We see it every day, and yet nothing is being done. So how do they think that this particular bit of legislation is going to be the sole law? It is incredibly detailed. Because it is an amendment Bill, it takes quite a bit of reading about to find out what links with what, and I just think it is the wrong time to be bringing legislation in.

I appreciate there is provision to start Bills in the Council – we have done it before – but the motives on this occasion are clear and it is to rush it through before the end of the administration. That is not how we should be legislating for the people of the Isle of Man. I think it is obvious what it is designed to do, and, as I have said, I hope when it appears in the other place with the new

administration it is taken back to the drawing board and the new Minister, whoever he or she may be, has a full review of it.

I am minded that if this is to continue then it should be fully scrutinised at committee level, but I again would urge the Member that I think after the Second Reading I do not think it should go any further at this stage until we see what the policies of the new administration are, which will be known very soon.

The President: The Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

Just in relation to some of the comments Mr Turner has made – in response, really – if this was being rushed through it would have gone through another place before coming to us, so I think his concerns are a little bit unfounded, in that if this legislation is so contentious the people who are elected at the next Election of the House of Keys will obviously deal with it as he thinks they will. (**Mr Turner:** Hopefully so.) However, it is not being rushed through because it is coming to us first. It has got to pass through that Branch as well, so I do not believe it is being rushed through.

If the Hon. Member is keen to sit and scrutinise it in a committee over the summer, so be it.

The President: The mover to reply.

Mr Corkish: Thank you, Madam President.

I firstly thank Mr Anderson for his helpful remarks.

With regard to Mr Turner, I am not sure whether this is a proposal or not that this be referred to a committee – in which case, is Mr Turner going to move that?

Just addressing some of the remarks, he very kindly made reference that the Department showed a degree of genius. I am sure they will be delighted to hear that.

It does include rafts of rules and regulations – rules and regulations which have been in being for some considerable time. There was a reference made ‘to keep bureaucrats in business’, which is a little unkind. It is the Department’s job to bring forth legislation in the interests of the public and, in this particular case, safety.

With reference to it being rushed through, it is not unusual at this time in parliamentary life that legislation is moved slightly quicker than usual. And this, he is quite right, has been bubbling around for years, to use his words, and yes, perhaps it is time that it should be addressed. With reference to it not being popular, rules and regulations, Hon. Member, never are in the main, and it is not unusual to rush through legislation at this time.

Mr Turner ... I will use the word ‘proposes’ that this should go no further, but already the powers there are available and nothing is being done. This is trying to address those problems which the Department sees should be. He said it is incredibly detailed: perhaps that is a good thing that the clauses are incredibly detailed.

Madam President, I hope I have addressed the remarks from Mr Turner. I beg to move.

The President: The motion is that the Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Road Traffic Legislation (Amendment) Bill 2016 – Clauses 1-15 considered

The President: Clauses. We turn to clause 1. Perhaps you would like to take clauses 1 and 2 together, would you?

Mr Corkish: I will, Madam President. Thank you.

Clauses 1 and 2: these give the Bill its short title and provide for it to come into operation on one or more days appointed by the Department of Infrastructure.

Madam President, I beg to move clauses 1 and 2 stand part of the Bill.

Mr Anderson: Madam President, I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I wish to move an amendment to clause 2, which would delete, on page 13 line 7, 'Error! Reference source not found.'

This amendment deletes a printing error that has unaccountably crept into the text, Eaghtyrane, so we wish to have that deleted with Hon. Members' approval, and I so beg to move the amendment standing in my name:

Amendment to clause 2

On page 13, in line 7 delete 'Error! Reference source not found.'

The President: The Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.

I beg to second and reserve my remarks.

The President: The motion is that clauses 1 and 2 stand part of the Bill. We have an amendment to clause 2 in the name of Mr Henderson. I put to you the amendment, Hon. Members. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

I now put to you clauses 1 and 2, with clause 2 as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Can I just clarify if Members have had a copy of these amendments? They were circulated this morning. (**Mr Wild and another Member:** Yes, thank you.) You have. If Hon. Members have not got copies, perhaps the Clerk could get them for you.

Mr Anderson: Madam President, I do not think Mr Turner has received his.

Mr Turner: She is getting me a copy.

The President: Right.

Mr Henderson: I do not know why; I have got mine.

The President: I am sure you can accept the explanation on that one anyway; (**Mr Turner:** Yes.) it is straightforward.

We move to clause 3.

Mr Corkish: Thank you, Madam President.

This clause briefly introduces the amendments made by the rest of the clauses in Part 2.

I beg to move that clause 3 stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The motion is that clause 3 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Corkish: Madam President, clause 4 extends, in a very economical way, certain driving offences from mechanically propelled vehicles to animal-drawn vehicles, being offences that relate to dangerous driving, careless or inconsiderate driving, drink or drug driving, or causing death or serious bodily harm where such driving is involved. For completeness, the expression 'animal-drawn' is preferred to 'horse-drawn'.

With the coming of the motor vehicle a century ago, legislation relating to the driving of horse-drawn vehicles was swept away in the mistaken belief that their use had been entirely superseded on public roads; yet such was not the case, as evinced by their continuing use at weddings and other events, with the lack of regulation being highlighted by a tragic incident which occurred in Derby, England, not too long ago – an incident in which a mother was seriously injured and her teenage daughter killed by a horse that broke away from its carriage and ran them down on the pavement. The only statutory offence, involving negligently or wilfully misusing a carriage, was section 78 of the Great Britain Highway Act 1835, which had an inappropriate maximum penalty of £100. For that reason the prosecuting authority brought a charge of manslaughter, but the judge ruled that the circumstances did not warrant such a grave charge and the trial was halted. So the offender was not brought to book and the family were denied retributive justice, a central pillar of the criminal law.

At present, such a situation could equally arise in the Island, where regulation is limited to the offence of furious driving as contained in section 66(4) of the Petty Sessions and Summary Jurisdiction Act 1927. It carries a maximum penalty of £5,000. The problem here is that 'furious driving' is not defined, is in any event extremely restricted in scope and does not cover the wide range of circumstances that the driving offences relating to mechanically propelled vehicles address.

Madam President, I beg to move that clause 4 stand part of the Bill.

The President: The Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.
I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

I think this gives me some concern, really. The mover is citing what was obviously a tragic incident. I think what we are basically saying here is that we are going to legislate on the basis of an incident that happened in England. And okay, something was identified and it has been looked at. That is fine; that is part of the process. But I just wonder whether legislating in this way will in fact do any good at all, because the fine will be a fine, it will just go into central coffers – and, first of all, we hope that we do not have an incident like that; that is the first thing. So what is the whole purpose of it, other than putting more of a fine on to the situation? It is almost like we are legislating for things that are not actually a problem.

I wonder if the mover could explain whether there has been any consultation with the local Carriage Club, whether they have consulted with them as to what insurances they have – because I understand many of these people do take out insurance – and what the feedback was. Are they even aware that this legislation is going through?

I just wonder whether it is legislating for the sake of it, because if you look at the example that was put in the explanatory notes about the tragedy in Derby, I cannot imagine any owner of the animal would be particularly keen for their animal to break free and go on the rampage. Some things

are just that, tragic accidents; but, as usual, we have the bureaucrats coming in with a sledgehammer to crack a nut and 'let's make everybody miserable because we can'. In a situation like that, there are not any winners – it is a bit of an old cliché that is trotted out too often, but there are not – and I just do not think it is helpful.

I would be interested to know what consultation was done with operators of these, because he is right, they are used for weddings and in some cases funerals as well. God forbid, let's have people out there actually enjoying themselves as well, because that is also what they are used for. I think we have to be proportionate.

The President: The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

I wish to be massively contentious here, but I am surprised that we do not include in there cyclists. Causing death by dangerous driving while under the influence of drink or drugs: if you refer to the Road Traffic Act, which is not in this, sections 12 and 13, we have careless and inconsiderate cycling, which is an offence, and we have cycling when under the influence of drink or drugs. We would have the actual metrics for testing for those rather notional descriptions if we included cycling in section 4. At the moment it stays outwith that, and therefore it becomes a subjective decision – unfit to ride through drink or drugs with no mention of testing at all. I think that with the number of cycles we have on the roads at the moment, increasingly so, and the proclivity for actually having an accident caused by a cyclist's action, it would be a wise move to actually have the same standards for drug testing. There was an offence of furious cycling as well, but that seems to have disappeared to become inconsiderate cycling. It just seems to me that I would like to see an amendment in there to actually include cycling.

Thank you, Madam President.

The President: The mover to reply.

Mr Corkish: Thank you, Madam President.

Mr Turner quite rightly moots his concern regarding horse-drawn vehicles and refers, as I did, to the incident in Derby. It is clearly an identified incident, an incident which could happen here in the Isle of Man. Mr Turner said legislation would not do any good. Are we then taking that to mean that we sit back and do nothing about it but have regard to it?

What the Department is doing here is looking ahead. It is a problem. It is a problem that could occur, and if such a problem did occur then the finger would be pointing at the Department whose responsibility it is to look at safety on our roads. Surely it is prudent to look ahead as to what has happened and what could happen.

With reference to the highway code for animal-drawn vehicles, I think later on I will be referring to owners of horses who are actively now putting together, because of their interested party, a highway code, if you like, for animal owners. So, in that respect, there has been some consultation with ... And there were several horse-related clubs that responded to consultation, and all were in favour. I hope that answers your question.

As I say, the UK example shows what can happen and we want to ensure that it can be properly dealt with here. I hope that answers Mr Turner's concerns.

Referring to Mr Coleman, who raises an interesting point, the answer would be, from the Department, that we can certainly look at this in the future, or indeed an amendment could be raised to this.

Madam President, with that, I beg to move that clause 4 stand part of the Bill.

The President: The motion is that clause 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Corkish: Thank you, Madam President.

Clause 5, which is consequent upon clause 6, extends the offence of causing death by careless driving when under the influence of drink or drugs so that it applies where the concentration of a specified controlled drug is above the specified limit.

Madam President, I beg to move that clause 5 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The motion is that clause 5 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

Mr Corkish: Thank you, Madam President.

This clause inserts a new section 5AA, which makes it an offence to drive or be in charge of a vehicle if the proportion of a controlled drug exceeds the limit for that drug specified in the table in subsection (8).

A controlled drug is one classified as A, B or C for the purposes of the Misuse of Drugs Act 1976, being a drug of a dangerous or otherwise harmful kind that it is unlawful for a person to possess unless it is prescribed or supplied for medical or dental purposes. The series of controlled drugs and their specified limits are the same as for the like offence in Great Britain.

The clause enables regulations to amend the table of controlled drugs subject to Tynwald approval.

Until 20 years ago the Island's law on driving under the influence of drugs was identical to Great Britain's, but whereas the latter has been improved during the intervening period, the former has not.

Madam President, I beg to move that clause 6 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

It is the table of drugs. It is now possible to test for illegal highs, and that is why the UK has just passed an Act where they make them illegal. Most legal highs have the actual effect on the body of seeming drunk, so one would imagine that exactly the same levels of loss of control would apply. Therefore, I wonder why we have not got an amendment, now there is an *in vitro* test for illegal highs – why we are not including them in here.

The President: The mover to reply.

Mr Coleman: Sorry, 'legal' highs rather than 'illegal' highs, though they are illegal.

Mr Corkish: I wish I could reply, Madam President.

The Hon. Member, Mr Coleman, raises another interesting point, again garnered from his involvement in the Department of Health and at the Isle of Man Prison as well. Legal highs – the table that is used is UK based and regulations can be brought forward later, to answer that query.

Madam President, I beg to move that clause 6 do stand part of the Bill.

The President: The motion is that clause 6 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

Mr Corkish: Thank you, Madam President.

Apart from providing a more accurate description – ‘preliminary breath test’ – of the test prescribed in section 5B, this clause extends the circumstances in which such a test may be administered to circumstances involving the suspected commission of any serious driving offence as defined in clause 33.

Madam President, I beg to move that clause 7 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: Could the mover elaborate a bit more on ‘preliminary breath test’? It is not entirely clear in the explanatory notes. Maybe he could give us a bit more detail on the preliminary breath tests process.

The President: It is set out in the next clause.

The Hon. Member, Mr Coleman.

Mr Coleman: I seem to be a *bête noir* today! I think this one actually helps to reinforce the point I made earlier about cycling. There are none of these sorts of definitive ways of doing things available. It just says they are unfit to ride, but there is no test for it, for cycling, which is why I will reinforce an amendment to clause 4.

Thank you, Madam President.

The President: The mover to reply.

Mr Corkish: Thank you, Madam President.

I thank Mr Coleman for his observations and comment.

Mr Turner needs more information on what ‘preliminary breath test’ is. I think I will be referring a little later on to breath tests which will be taken and awaiting the Department of Home Affairs and the new methodology which can be used and will be used in the future. The new testing equipment that can be used now at the roadside is far more advanced than ever before and is relied upon certainly in the adjacent isle, and hopefully will be here too.

The President: The motion is that clause 7 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Corkish: Thank you, Madam President.

Clause 8 inserts a new section 5BA, which provides for the administering of a preliminary drug test by a constable if the constable reasonably suspects that a person is or was driving, attempting to drive, or in charge of a vehicle while under the influence of a drug.

The nature of the test is set out in subsection (8).

Use of the section will be dependent on DHA’s approval of the testing devices and the Police’s purchase of them.

Madam President, I beg to move that clause 8 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The motion is that clause 8 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

Mr Corkish: Thank you, Madam President.

Clause 9 amends section 6, which enables constables to require that persons suspected of driving etc. under the influence of drink or drugs provide a specimen of breath, blood or urine for analysis or for a laboratory test.

The clause extends the locations where a requirement to provide a specimen of breath may be made by a constable in the course of investigating whether a specified offence is committed, being an offence which now includes the drug driving offence under new section 5AA. Besides a police station as at present, those locations now extend to a hospital and the site where a preliminary breath test has been administered.

The clause removes the present restrictions on requiring at a police station that a specimen of blood or urine be provided.

The clause continues by empowering a constable to arrest without warrant a suspected offender who fails to provide a specimen of breath, blood or urine when required to do so.

Madam President, I beg to move that clause 9 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The motion is that clause 9 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

Mr Corkish: Thank you, Madam President.

Clause 10 basically re-enacts section 7(1), but does not re-enact section 7(2), which provides a suspected offender with the option of requesting that a blood or urine test supersede a breath test in certain circumstances.

The doing away with the option is on the grounds that, nowadays, devices used to analyse specimens of breath provide exceedingly accurate readings.

Madam President, I beg to move that clause 10 stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: The mover talks about the technology, but surely this is a backward step. He talks about the technology that can analyse breath, but they of course still cannot be the best method of analysing; and is this not almost fast-tracking a procedure where at the moment there might be the choice to give a sample? Am I understanding of what he said in his description of this clause correctly?

The President: The mover to reply.

Mr Corkish: I thank Mr Turner again. A backward step – we do not think so. This methodology is used in the UK and it works perfectly well. I do not think that this methodology absolves or does away with the blood or urine test. I think I said that in an earlier clause – I hope, Hon. Member.

I beg to move, Madam President.

The President: The motion is that clause 10 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Corkish: Thank you, Madam President.

Clause 11 extends section 7B to the drug driving offence under new section 5AA.

The section prescribes the circumstances in which a person suspected of a drink or drug driving offence may or may not be detained at a police station.

Madam President, I beg to move that clause 11 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The motion is that clause 11 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Corkish: Thank you, Madam President.

This clause extends section 7C to the drug driving offence under new section 5AA.

The section prescribes the circumstances in which evidence of the proportion of alcohol or any drugs in a specimen of breath, blood or urine may be used in proceedings.

Madam President, I beg to move that clause 12 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The motion is that clause 12 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 13.

Mr Corkish: Thank you, Madam President.

This clause substitutes interpretive provisions relating to drink or drug driving, being provisions consequent upon the use of certain expressions in the Act as now amended by this Bill.

Madam President, I beg to move that clause 13 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I wish to move an amendment to this clause. The effect of the amendment, if approved, will be to rectify a misprint, basically. So we are changing 'this is designated' to 'that is designated'.

Eaghtyrane, I beg to move:

Amendment to clause 13

On page 21, in lines 21 and 22 delete 'this is designated' and substitute «that is designated».

Mr Crookall: I beg to second, Madam President.

The President: The Hon. Member, Mr Turner.

Mr Turner: Yes, thank you, Madam President.

I notice that it ... We are on clause 13, aren't we?

The President: Yes.

Mr Turner: Yes. It says:

“drug” includes any intoxicant other than alcohol;

That is a very wide description there, and of course an intoxicant could be present from anything. I just would like the mover to explain exactly why they have decided to specify it in that way. It may be that people fall foul of this without even realising it.

The President: The mover to reply.

Mr Corkish: Thank you, Madam President.

I think I take Mr Turner's point. An intoxicant is an intoxicant, and I suppose sportsmen and women fall foul of this as well when they undergo drug testing, not realising that an intoxicant is an intoxicant. A drug is a drug. There is a wide spectrum now of what is termed a drug and how it affects different people, and I think the term being used is a general catch-all, I would proffer. Again, I mentioned about the sportsmen and women – it is widely used. This is the same procedure as it would be in the UK –

Mr Turner: Which criminalises people.

Mr Corkish: – which works.

Madam President, I beg to move that clause 13 do –

The President: Would the Hon. Member like to ...?

Mr Crookall: Yes, if I could, Madam President, just come in on that. I understand where Mr Turner is coming from, because it does give a very broad base; but, at the end of the day, if somebody has been stopped you need to be able to look at why they are intoxicated. They have obviously been stopped for a reason, so I have got no problem with this at all, because it is either through drink or drugs. And that might have been anything. It might have been an overdose of something by mistake, but they have obviously been stopped for a reason and once they have been stopped they might not get prosecuted for it but you need to have that reason to stop them, and if they are under the influence of drink or drugs, for whatever reason, at least they have got the reason for stopping them. I do not have a problem with that at all.

Mr Turner: They might have been on Night Nurse.

Mr Crookall: Well, you should know not to overdose on Night Nurse.

Mr Henderson: Correct. Semantics.

Mr Crookall: Yes.

The President: The hon. mover.

Mr Corkish: Thank you, Madam President.

I am grateful to Mr Crookall for his observations and an understanding of the wide generalisation of the word 'intoxicant'.

Madam President, I beg to move.

The President: The motion is that clause 13 stand part of the Bill. To that we have an amendment in the name of the Hon. Member, Mr Henderson. I put to you the amendment first, Hon. Members. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

I now put to you clause 13 as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

Mr Corkish: Thank you, Madam President.

Clause 14 substitutes a new section 20, which relates to the duty of a driver or rider of a vehicle on occurrence of an accident.

The section is now extended to vehicles that are not mechanically propelled and to ridden animals. Subsection (2) provides that where an accident specified in subsection (1) occurs, the driver or rider must not only stop the vehicle but also keep it stationary nearby for as long as is reasonably necessary to comply with the provision of information under subsection (3).

Madam President, I beg to move that clause 14 do stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Coleman.

Mr Coleman: I note that this section does not actually refer to the mechanically propelled vehicle; it says 'rider'. Can I take that therefore to mean that it would include a cyclist who had been involved in an accident?

The President: The Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.

Just to actually follow through from a remark made earlier by my hon. colleague, Mr Coleman, I think probably you can open an entire Pandora's box here and argue that, for example, all cyclists should be insured if they go on to a public road, so that if they have an accident there is insurance in the background. You could argue road tax could equally apply because they are using a road, and the same thing could apply to animals and horse-drawn vehicles.

Mr Coleman: I agree they could, but we have a piece of legislation in front of us which has nothing to do with insurance. At the moment we have not got – (**Mr Wild:** No.) But what we are faced with here is a situation where ... You can have two situations: a person in a car drives out of a pub car park in front of another car and there is an accident – and they will be prosecuted for that, and if a death is caused they will be charged with causing a death by dangerous driving or while under the influence of drink or drugs ... And yet what I have not seen in here yet is that if a drunken cyclist comes out of a pub and causes an accident which causes someone to be killed, how they will be treated. That is why I said in section 4 we should add cyclists to it.

Mr Wild: I respect your remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

With these provisions, obviously they have got the ... [*Inaudible*] so they are new provisions that are coming in. It says:

(2) The driver or rider of the vehicle must stop the vehicle and keep it stationary at or near the place where the accident occurred for as long as is reasonably necessary to comply with subsection (3).

(3) The driver or rider ...

And so it goes on.

I have known in the past where people have had minor accidents, exchanged details with people and gone their separate ways, and everything was fine. Is that still going to be possible, or does everything have to be now reported to the Police? I have also known people who have had accidents – one recently actually; it has finished its judicial process. There was some ice, and nothing was damaged but they reported it because they went off the road. They reported the ice and they got prosecuted. So what it says to people is, ‘Well, actually, you are better off just not saying anything,’ – which is not, of course, what we are wanting to encourage – because by doing the right thing they have then ended up getting prosecuted. After a lot of arguing and a lot of lawyers’ expense it was downgraded eventually to a caution, but the message is ... It is almost like we are encouraging people to be dishonest because you know that the moment you phone the Police you are bringing trouble on to yourself.

What we are trying to legislate for is to have things dealt with in a proper orderly manner, so I would like to know about this in detail because this does appear to be quite wide.

‘Relevant property’ – I was told a few years ago that it could even be if you take a bit out of a shrub at the side of the road it is classed as damage. It was a police officer who told me that. So there are all sorts of things in here as to whether this indeed is now going to effectively criminalise people who maybe have a shunt, exchange details, the insurance companies take care of it all. Are you going to make people sit at the side of the road while presumably the Police are going to turn up, in which case it is just inconveniencing everybody, which is not what we should be doing. Surely it should be designed for the more serious cases where there has been real negligence – and I have known in some cases the Police have actually said they are not turning out. So what is the situation here that we are creating with these new provisions?

The President: It does say only property other than the vehicle.
Sorry! The mover to reply.

Mr Corkish: Thank you –

Mr Turner: What do they mean, ‘other than the vehicle’? ... *[Inaudible]*

Mr Corkish: Thank you, Madam President.

Mr Turner mentions the word ‘criminalise’. That is not the wish at all, and I think at the end of the day common sense should prevail.

A cyclist should follow this as well if involved in an accident, for Mr Coleman.

Mr Coleman: And it says that?

Mr Corkish: Well, it says vehicles that are not mechanically propelled, so ‘a cyclist should follow this’ is the answer from the Department.

Mr Wild mentioned the Pandora’s box. Indeed, it requires cyclists to be insured and I would add, in a personal view, there are so many more fast vehicles on the road now, and indeed a lot of cyclists as well, and it frightens the life out of me to see cyclists on the road – quite entitled to be, but they should carry insurance as being road users.

Mr Turner – exchange of information is what is required here. Accidents should be reported to the Police, but often are not. The Police do not necessarily have to get involved in only a minor incident, so I would suggest what has happened before maintains. So it is not being overly regulatory here but is nevertheless clarifying the subject. He mentioned a shrub. The Police do not have to get

involved in minor incidents, so therefore I think, as I mentioned, common sense may be the order of the day where it can be easily sorted with little damage.

Madam President, I beg to move that clause 14 do stand part of the Bill.

The President: The motion is that clause 14 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Corkish: Thank you, Madam President.

This clause substitutes a new section 24, which extends from motor cycles to vehicles generally the Department's power to make regulations about the wearing or sale of protective helmets. Vehicles which may become the subject of regulations include motorcycle sidecars and quadricycles, which at present fall outside the scope of the section.

Madam President, I beg to move that clause 15 stand part of the Bill.

Mr Wild: Madam President, I beg to second and reserve my remarks.

The President: The motion is that clause 15 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16.